



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

August 29, 1972

Honorable Robert Buntyn
County Attorney
Castro County Courthouse
Dimmitt, Texas 79027

Opinion No. M-1197

Re: Whether the Commissioners
Court of Castro County may
set the salaries of Justices
of the Peace at an hourly
rate for hours actually
worked.

Dear Mr. Buntyn:

You have requested an opinion as to whether the Commissioners Court of Castro County may set the salaries of Justices of the Peace at an hourly rate for hours actually worked.

The commissioners court is a court of limited jurisdiction and has only such powers as are conferred upon it by the statutes and Constitution of this State, whether by express terms or by necessary implication. Section 18, Article V, Constitution of Texas; Article 2351, Vernon's Civil Statutes; and Attorney General's Opinion C-350 (1965), and numerous case authorities there cited.

Under the provisions of Section 61 of Article XVI of the Constitution of Texas, the commissioners court has the authority to determine whether justices of the peace are to be compensated on a fee basis or a salary basis. Attorney General's Opinions C-497 (1965), V-748 (1948), WW-1499 (1962) and V-750 (1948). Article 53.07, Texas Code of Criminal Procedure, requiring every justice of the peace to be compensated on a salary basis has been held to be unconstitutional and in violation of Article XVI, Section 61, Texas Constitution. Attorney General's Opinion C-497, *supra*.

We know of no provision in the Constitution or statutes of this State authorizing the commissioners court to compensate justices of the peace on an hourly basis.

The commissioners court may not interfere or usurp the sphere that is delegated to a county official by law. Pritchard & Abbott v. McKenna, 350 S.W.2d 335 (Tex.Sup. 1961). Therefore, the commissioners court is not authorized to prescribe office hours

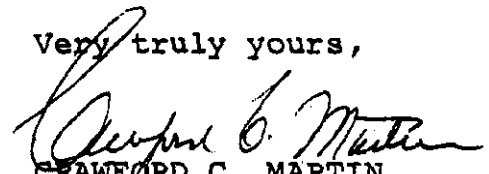
of a county or precinct official or the days which such official would be required to keep his office open. Attorney General's Opinions O-6679 (1945) and C-350 (1964).

Since the commissioners court does not have the authority to prescribe office hours of justices of the peace and the method of compensation is prescribed by the Constitution as either a fee basis or a salary basis, you are advised that the commissioners court does not have the authority to compensate justices of the peace on an hourly basis.

S U M M A R Y

A commissioners court does not have authority to compensate justices of the peace on an hourly basis.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
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